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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,223	GRAUZER ET AL.	
	Examiner	Art Unit	
	ARTHUR O. HALL	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-55* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 July 2007* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

Examiner acknowledges applicants amendment of claims 9, 19, 31, 39, 43 and 46 and addition of claim 55 in the Response dated 11/26/2007 and included in the Appeal Brief dated 4/28/2008 directed to the Final Office Action dated 9/24/2007. Claims 1-55 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicants arguments in the Response dated 11/26/2007 and in the Appeal Brief dated 4/28/2008 directed to the rejection set forth under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) in the Final Office Action dated 9/24/2007 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicants amendments and in view of applicants arguments.

Drawings

The drawings continue to be objected to because Fig. 9 is described as a side view of a shuffling device with camera and Fig. 10 is described as a top view of a shuffling device with camera; however, neither of the views appear to have all of the same components and there exists no cross-section marking nor label thereof on either drawing to show how one view relates to the other view. Examiner has previously interpreted and continues to interpret based on the Non-final Office Action dated 4/18/2007 that reference characters 804, 806, 808 and 812 in Fig. 9 are equivalent to reference characters 904, 906, 908 and 912 in Fig. 10, respectively, since these components are substantially the same. Applicant attempted in the Response dated

7/23/2007 to correct this problem by modifying Fig. 10 to describe reference characters 804 and 906 (which Examiner believes applicant meant 806 in light of applicants changes to the specification) and maintaining in Fig. 10 reference characters 908 and 912, which makes changes only to Fig. 10 as described in the Non-final Office Action dated 4/18/2007. However, these changes do not obviate the objection because the common features in Fig. 9 and Fig. 10 continue to be described with different reference characters.

Therefore, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because at least reference characters 806, 808 and 812 in Fig. 9 and the different reference characters 906 (unless applicant meant 806), 908 and 912 in Fig. 10, respectively, have both been used to designate pick off rollers or nip rollers. Applicant must label all common features between drawings with the same reference characters and provide cross-section markers as is necessary for Fig. 9 to put one of ordinary skill in the art on notice that Fig. 10 is a cross-section of Fig. 9.

The drawings are replete with the above informalities and errors. Applicant should review all drawings and correct all informalities and errors of the type described above and any further drawing errors found.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

The disclosure is objected to because of the following informalities: applicant has described reference character 806 in the specification, which Examiner believes relates to different reference character 906 in the drawings, thereby rendering the specification discrepant with respect to the drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 30, 43 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 30, 43 and 48 recites the limitations that randomized cards are elevated "at least to the top surface," "proximate the gaming table surface" or "above to the top surface" of the device. However, it is unclear whether applicants meant for the top surface to be reference character 4, 18 or 21 in Fig. 1 of the drawings in the disclosure of the specification. Examiner will interpret that applicants meant feature 4 to be the top surface for the purpose of examination in this office action. There is insufficient antecedent basis for this limitation in the claim.

Claim 48 recites the limitation " wherein an elevator for raising the playing card collection surface so that at least some randomized cards are elevated above to the top surface of the device for removal as the access." However, it is unclear as to meaning of this phrase as recited. Examiner finds that applicant meant for the elevator to perform the functions recited so that the cards are presented above the surface for removal –from-- the access; however, claim 48 does not convey this meaning. Examiner suggests that applicant rewrite claim 48 to properly recite the applicant's intended meaning. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

Examiner incorporates herein the grounds of rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as described in the Final Office Action dated 9/24/2007 with respect to the unamended features. However, Examiner sets forth new grounds of rejection under 35 U.S.C. § 103(a) with respect to amended or new features as described below because each of the features of applicants claimed invention as amended or newly added continues to be unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-13, 22-29, 30-43, 45-48 and 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US 6,267,248; hereinafter Johnson '248) in view of Albrecht (US Patent 6,250,632), and further in view of Johnson '085 (US Patent 5,683,085; hereinafter Johnson '085). Features are described by figures with reference characters where necessary for clarity.

Regarding claims 1, 23, 30, 31, 37, 43, 45, 46, and 54-55, Johnson '248 teaches

a device / automatic card shuffling device / automatic card shuffler for forming / randomizing / shuffling a random set or group of playing cards (column 2, lines 33-35, Johnson '248) comprises:

a housing capable of being mounted into a gaming table surface (column 5, line 61, Johnson '248; a housing is disclosed that is configurable to be mounted into a table surface since the shuffler is designed to encompass the size of playing cards);

a single card receiving area / card receiving area / receiving area / in-feed compartment for receiving an initial set of unshuffled playing cards to be randomized (column 1, lines 59-60 and Fig. 2, 12, Johnson '248; a holding means receives unshuffled cards that are to be shuffled);

a card moving mechanism for moving cards individually from the in-feed compartment into a single card mixing compartment that receives all cards during a randomization process (column 2, lines 38-39, column 5, lines 25-31 and Fig. 2, 18, Johnson '248; a feed means including pick rollers positioned at the holding means along a horizontal carriage or transport to the rotatable / vertical magazine so as to move the cards from the holding means to the rotatable / vertical magazine);

a first sensor for sensing a position of cards between the card receiving area and the card randomizing system (column 5, lines 7-8 and Fig. 2, 15, Johnson '248; a first sensor disposed between the holding means and the rotatable / vertical magazine measures the either the presence of the card or the rank and suit of the card);

a memory that records at least the rank of each card in each set of cards formed in the card mixing compartment (column 4, lines 7-15, Johnson '248; a memory is configured to store the ID or identification of each card transported from the holding means to the rotatable / vertical magazine, and it would have been obvious at the time of invention to try an implementation in which the second sensor disclosed in Albrecht that measures rank and suit of each card would provide the ID of the card to be stored in memory since it would have been and obvious design choice to utilize the memory disclosed in either Johnson '248 or Albrecht because both memory devices would work equally as well to store the card ID data); and

a moveable cover over the elevator (column 3, lines 50-55 and Fig. 2, 25a, Johnson '248; an upper shroud is configured to cover the elevator disclosed in Albrecht since the shroud is designed to prevent exposure of the cards stored in the rotatable / vertical magazine).

However, Johnson '248 does not appear to teach a top and bottom surface of the shuffler, a second sensor, a single collection surface, an elevator, a controller, a microprocessor, a card moving sequence, a card mixing compartment and access to the card mixing compartment as claimed. Therefore, attention is directed to Albrecht, which teaches

a top surface and a bottom surface of said device (column 6, lines 37-40, column 9, lines 44-55, Fig. 2, 46 and Fig. 5b, R, Albrecht; the device is shown having a top surface at the deck removal area and bottom surface just below the rest position of the platform);

an image capture device / image capture system / second sensor that reads / senses / identifies at least the rank and/or the rank and suit of each at least one card before being received on the card collection surface, **or in other words**, before it is inserted into a set of cards at a position below the predetermined number of cards, **or in other words**, after it has begun leaving the single card receiving area and before being received on the single card collection surface / card collection surface, **or in other words**, as it is moved towards, into or through the card mixing compartment, but before removal from the device (column 4, lines 49-52, column 6, lines 48-62 and Fig. 2, 24 and 26, Albrecht; an second sensor measures images to determine the rank and suit of each card before the card is transported out of the deck holding area);

a single collection surface / at least one card supporting element / card receiver / a moveable lower support surface in a card collection area for receiving or accepting all randomized cards / a group of randomized playing cards, **or in other words**, within the card collection area that will support a predetermined number of cards within the card collection area to be shuffled, **or in other words**, one at a time into the single collection area / card collection area to form a single randomized set of playing cards, the single collection surface / collection surface receiving cards so that all playing cards / cards from the initial set of playing cards are received above the single collection surface and

below the top surface of the device (Fig. 2, 36, Albrecht; a platform or single collection surface is disposed within the card mixing compartment and configured to store each card individually after the cards are loaded one at a time into the card mixing area or compartment onto the platform and below the top surface);

an elevator for raising and lowering the single collection surface or moveable support surface within the card collection area so that at least some randomized cards are elevated or raised at least to the top surface of the device or to an elevation proximate the gaming table surface (column 9, lines 44-55 and Fig. 2, 44, 92, 94 and 96, Albrecht; a platform raising mechanism or elevator having a motor, rack and pinion raise the cards to the top surface at the deck removal area and lower the cards to the rest area of the platform near the bottom surface, and it would have been obvious at the time of invention to try an implementation in which the platform raising mechanism raises the stack of cards above the top surface at the deck removal area since the mechanism is configurable or configured to travel the full length of the card mixing compartment or area);

a controller for controlling the card randomization mechanism by means of a user-manipulated remote control device (column 10, lines 3-17 and Figs. 1b and 6, 102, Albrecht; a controller in electrical communication with a user control panel for controlling the shuffler, and it would have been obvious at the time of invention to try an implementation in which the control is remote from the shuffler since the control panel is a peripheral device disposed external to the shuffler);

a microprocessor with the memory for controlling the operation of the device / card shuffler and activating the image capture device / image capture system / second sensor upon receiving a card present signal from the first sensor (column 10, lines 18-28, Albrecht; a microprocessor has memory that stores the code configured to control operation of the shuffler and is configured to control the second sensor that captures card image data determining rank and suit of the card, and it would have been obvious at the time of invention to try an implementation in which the second sensor is operated based on card presence or position data of the first sensor disclosed in Johnson '248 since it would have been an obvious design choice for one having ordinary skill in the

art to determine the position of each card via the first sensor before measuring the rank and suit of each card via the second sensor because the cards are transported one at a time or sequentially out of the deck holding area);

a card moving sequence programmed in memory that enables the automatic card shuffler to move a set of cards from a card receiving position to a card collection area in the shuffler in a non-shuffling event, and to read the rank and suit of each card between the card receiving position and the card collection area in the non-shuffling event (column 10, lines 3-28, Albrecht; the microprocessor utilizes a random number generator stored in memory that provides the random sequence of card shuffling after the cards leave the card holding means and before the shuffling process begins and is configured to control a second sensor that captures card image data for rank and suit of the card after the card leaves the card holding area and before the shuffling process begins);

a card mixing compartment that identifies a position for each card in each set of cards formed in the card mixing compartment (column 8, lines 6-31 and Figs. 4a-4d, 74a, Albrecht; a third sensor is configured to measure when each card has left the deck holding area and entered the card mixing area, and it would have been obvious at the time of invention to try an implementation in which the position measurement of each card via third sensor provides the position of each card in the card mixing area since each card position is measured sequentially and one having ordinary skill in the art would have known that each measurement can be tracked in software by the controller to count the cards and associate each card count position with the rank and suit of the card measured by the second sensor by means of common programming without modification of the structure of shuffler); and

access into an open area comprising 2, 3 or 4 vertical supports for removal of the single randomized set of playing cards as a complete set (Fig. 2, 46, Albrecht; access to the deck holding area is shown that is encompassed by the threaded rod and wall supports included as part of the card mixing or shuffling compartment/body);

wherein the card mixing compartment comprises a plurality of substantially vertical supports (Fig. 2, 84, Albrecht; a threaded rod and walls are shown

encompassing the deck removal area, which are vertical supports included as part of the card mixing or shuffling compartment/body) and an opening for the passage of cards from the in-feed compartment (Fig. 2, Albrecht; an opening is included between the card holding area and the card mixing compartment in which the cards pass therethrough from the card holding area to the card mixing compartment).

Albrecht suggests that a single shuffling device is needed that is compact and requires little skill or training of its user for operation and access to shuffled cards (column 4, lines 27-34, Albrecht).

Johnson '248 suggests that a rotatable card mixing magazine may be substituted by a vertical card mixing magazine so as to accommodate an vertically displaceable card surface (column 5, lines 25-31, Johnson '248).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Johnson '248 in view of the teachings of Albrecht for the purpose of exchanging the interchangeable card mixing area feature disclosed by Johnson '248 with the elevator and single card holding platform features of Albrecht for performing device calibration and card delivery in order to make card shuffling devices more automatic and require less user intervention.

Further, Johnson '248 alone or in combination with Albrecht does not appear to teach the randomizing system and gripping arm as claimed. Therefore, attention is directed to Johnson '085, which teaches

a randomizing system / card randomizing system / card randomization mechanism for randomizing an order / the order of an initial set of playing cards (column

2, lines 5-8 and column 4, lines 13-31 and Fig. 3, 10, 25, Johnson '085; the card shuffler means randomly sorts the order of decks of cards in a main shuffling chamber);

wherein the card mixing compartment comprises a gripping arm, the gripping arm capable of suspending cards above the opening (column 7, lines 15-27, Figs. 3 and 5, 67, 69, 71, 72, Johnson '085; a pair of gripper arms and members are configured to hold card above an opening similar to the opening disclosed in Albrecht so that a card inserted into the card mixing area is placed onto a card stack that accumulates in the chamber, and it would have been obvious at the time of invention to try an implementation in which the platform and elevator disclosed in Albrecht holds transports the stack of cards vertically in the chamber of Johnson '085 or the card mixing chamber encompassing the deck holding area in Albrecht since one having ordinary skill in the art would have known to incorporate the vertically displaceable gripping arms of Johnson '085 with the vertically displaceable threaded rod to obtain grasping of at least a portion of the cards to be held above the opening in Albrecht because it would have been an obvious design choice to integrate either the threaded rod of Albrecht or the pulley/belt system of Johnson '085 as both designs would work equally as well to displace the gripper arms vertically so as to randomize the cards) and at least one stationary gripping element, a lower edge proximate the opening (column 5, line 60 to column 6, line 10, column 6, line 62 to column 7, line 3 and Fig. 3, 20, Johnson '085; the roller assembly or gripping element is fixed near the opening or entrance to the card mixing chamber);

Johnson '085 suggests that gambling games need efficient card shuffling devices that shuffle and supply single or multiple card packs to a user (column 1, lines 29-35 and column 3, lines 7-10, Johnson '085).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Johnson '248 in view of the teachings of Albrecht, and further in view of the teachings of Johnson '085 for the purpose of

providing the upgradeable elevator, vertically positionable card collection surface and card mixing area threaded rod support features disclosed by Johnson '248 alone or in combination with Albrecht with the moveable and stationary grippers disclosed by Johnson '085 in order to in order to make card shuffling devices more efficient.

Regarding claims 37 and 39, the scope of the claims for the method of operating the system would be inherent with respect to claims 1, 23, 30-31, 43, 45-46 and 54-55 above in view of the structure disclosed by Johnson '248, Albrecht and Johnson '085 since the method is the normal and logical manner by which the system could be employed.

Regarding claims 3-5, 7-8, 22, 29, 32-34, 41-42, 50-53, Johnson '248 teaches

Regarding claim 3, at least one pick-off roller removes cards one at a time from the card receiving area and moves cards one at a time towards the randomizing system and the image capture device can read a card only after it has been moved by the at least one pick-off roller (Fig. 2, Johnson '248; a plurality of pick rollers are shown that move each card sequentially past a first sensor that is configured to read the position or rank and suit of the card).

Regarding claim 4, at least one pair of rollers receives each card from the at least one pick-off roller before the image capture device can read each card (Fig. 2, Johnson '248; a pair of pick rollers receive each card from the plural pick rollers before passing the first sensor).

Regarding claim 5, a microprocessor controls movement of the pick-off roller and the at least one pair of rollers (column 4, lines 7-17 and Fig. 2, 16, Johnson '248; the

microprocessor controls the plural pick rollers and pair of pick rollers to feed the cards sequentially past the first sensor).

Regarding claims 7 and 8, one card at a time is positioned into a randomized set of playing cards over the collection surface, **or in other words**, the randomization system moves one card at a time into an area overlying the collection surface, which occurs after the one card has been read for suit and rank (Fig. 2, 24, Johnson '248; the randomizing system includes three pairs of pick rollers on a delivery carriage, whereby the pairs of pick rollers are configured to place each card in the card rotatable / vertical magazine, and it would have been obvious at the time of invention to try an implementation in which the cards are place one at a time onto the platform disclosed in Albrecht since the platform is configured to capture and hold a stack of cards inserted into the card mixing area).

Regarding claim 22, a microprocessor is controllably connected to the device, the microprocessor directing movement of playing card moving elements within the device, the microprocessor randomly assigning potential positions for each card within the initial set of playing cards, and then directing the device to arrange the initial set of playing cards into those randomly assigned potential positions to form a randomized final set of playing cards with each card in the randomized set having been read for at least rank (column 1, lines 53-58 and lines 60-65 and column 4, lines 7-17, Johnson '248; a microprocessor is configured to control the placement of cards in the card mixing area for shuffling or randomization).

Regarding claim 29, a memory records the reading of each at least one card inserted into a set of cards and the position of each card within the final set of cards is identified to create an index of all cards in a final set of cards (column 2, lines 27-31 and lines 36-37, column 4, lines 7-15, column 5, lines 7-11 and Fig. 2, 15, Johnson '248).

Regarding claim 32, the image capture system identifies at least suit and rank for each card as it is moved towards, into or through the card mixing department, but before removal from the device (column 2, lines 27-31 and lines 36-37, column 5, lines 8-11 and Fig. 2, 15, Johnson '248).

Regarding claim 33, a final set of cards comprising all cards and at least fifty-two cards in the device are recorded in memory informationally connected to the device with respect to position within the final set and at least the rank of each card in the final set of cards (column 1, line 66 to column 2, line 3, column 4, lines 7-15 and column 5, lines 8-11, Johnson '248).

Regarding claim 34, suit and rank of each card in the final set of cards is recorded (column 4, lines 7-15 and column 5, lines 8-11, Johnson '248).

Regarding claim 41, the final order is random and each individual card in the final set of cards is identified by at least rank and position within the final set of cards (column 1, lines 53-58 and column 5, lines 7-11, Johnson '248).

Regarding claim 42, each individual card in the final set of cards is identified by at least rank, suit and position within the final set of cards (column 5, lines 7-11, Johnson '248).

Regarding claim 50, multiple playing cards are present only in the single card receiving area and the single card collection area (Fig. 2, 12 and 13, Johnson '248; plural cards are received in the holding means or single card receiving area and transported into the area between the holding means and the shuffling area, which is configured to be the single card collection area)

Regarding claims 51, 52 and 53, the automatic card shuffler has a program embedded in memory in the device that can be activated to move cards from the card

receiving area to the card collection area without randomization (column 4, lines 7-15 and column 1, lines 53-58, Johnson '248; cards transported from the holding means to the area between the holding means and the shuffling area are still unshuffled before being deposited into the card magazine mixing area via the microprocessor under the control of software stored in memory), the rank and suit of each card being read between the card receiving area and the card collection area to verify the content of a complete set of cards placed into the card receiving area (column 2, lines 27-31 and lines 36-37, column 5, lines 8-11 and Fig. 2, 15, Johnson '248).

The claimed features of claims 12-13 and 47-48 do not appear to be disclosed in Johnson '248; therefore, attention is directed to Albrecht, which teaches

Johnson '248 and Johnson '085 disclose all the features described above. The claimed features of claims 12-13 and 48 that are substantially lacking in Johnson '248 alone or in view of the features of Johnson '085, but taught by Albrecht are as follows:

Regarding claim 12, the card collection surface is moved by a motivator that is able to move incremental vertical distances that are less than the thickness of a playing card (column 9, lines 8-14, Albrecht; it is known in the art to calibrate devices relative to the thickness of the material that the device manipulates).

Regarding claim 13, the motor is a stepper motor or an analog motor (column 9, lines 22-26, Albrecht).

Regarding claim 47, the playing card collection surface comprises a surface that is moved by an elevator (column 9, lines 44-55, Albrecht).

Regarding claim 48, an elevator for raising the playing card collection surface so that at least some randomized cards are elevated above to the top surface of the device for removal as the access (column 9, lines 44-55 and Figs. 2 and 5d, 46, Albrecht; it would have been obvious at the time of invention to try an implementation in which the platform raising mechanism raises the stack of cards above the top surface at the deck removal area since the mechanism is configurable or configured to travel the full length of the card mixing compartment or area).

The claimed features of claims 6, 9-11, 24-28, 35-36, 38, and 40 do not appear to be disclosed in Johnson '248 alone or in combination with Albrecht; therefore, attention is directed to Johnson '085, which teaches

Regarding claim 6, when a first card being moved by the pick-off roller is being moved by the at least one pair of rollers, movement of the pick-off roller is altered so that no card other than the first card is moved by either the pick-off roller or the at least one pair of rollers (column 6, lines 1-10 and column 7, lines 4-6 and lines 48-55, Johnson '085).

Regarding claim 9, the collection area is bordered on two opposed sides by two movable card gripping elements (column 5, lines 29-35 and Fig. 5, 69 and 72, Johnson '085).

Regarding claim 10, an insertion point to the card collection area is located below a bottom edge of the two movable card gripping elements (column 7, lines 19-23 and Fig. 8, 25 and 34, Johnson '085).

Regarding claim 11, the card collection surface is vertically positionable within the card collection area (Figs. 7-10, 25, Johnson '085).

Regarding claim 24, at least one card supporting element comprises an element on at least one side of the card collection area that can move inwardly within the card collection area to contact and support the predetermined number of cards within the card collection area (column 5, lines 29-35, column 7, lines 11-15 and Fig. 5, 69 and 72, Johnson '085).

Regarding claim 25, the at least one card supporting element comprises at least two opposed card supporting elements that move inwardly within the card collection area to contact and support the predetermined number of cards within the card collection area (column 5, lines 29-35, column 7, lines 11-15 and Fig. 5, 69 and 72, Johnson '085).

Regarding claim 35, a position of the elevator is randomly selectable and the support surface is movable to the selected position, and after the gripping element grasps at least one side of the cards, the elevator lowers, creating a space beneath the gripping element, wherein a card is moved from the in-feed compartment through the opening and into the space, thereby randomizing the cards (column 7, lines 9-23 and Figs. 7-10, Johnson '085).

Regarding claim 36, two stationary gripping elements are provided to grip opposite sides of a set of cards in the mixing compartment (column 5, lines 29-35 and Fig. 5, 69 and 72, Johnson '085).

Regarding claim 38, after a card has been inserted, and when a presence of at least one additional card in the card in-feed tray is sensed, the elevator moves to another randomly determined height, creating another opening (column 7, lines 9-23 and lines 44-55 and Figs. 7-10, Johnson '085; process of randomization is repeated).

Regarding claim 40, the lower support surface is lowered beneath an elevation of the card feed mechanism when the computer instructs that the card being fed is to be placed on top of the stack (column 6, lines 62 to column 7, lines 1-3, Johnson '085),

a) suspending all cards in the card arranging area by means of the retaining device when the computer instructs that the card being fed is to be placed on the bottom of the stack (column 7, lines 9-19, column 8, lines 2-4 and Figs. 7-8, Johnson '085), and

b) instructing the elevator to move, causing the lower support surface to adjust to a preselected elevation, retaining a subgroup of cards above a feed elevation and lowering the lower surface, creating an opening, and placing a card between the subgroup of suspended cards and the remaining cards supported by the lower support surface (column 7, lines 19-27, column 8, lines 2-4 and Figs. 9-10, Johnson '085).

Claims 14-21 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson '248 in view of Albrecht, further in view of Johnson '085, and even further in view of Purton et al. (International Patent Application Publication WO 00/51076; hereinafter Purton). Features are described by figures with reference characters where necessary for clarity.

Johnson '248 alone or in combination with Albrecht and Johnson '085 teaches features of the claimed invention as described above.

The claimed features of claims 14-21 and 26-28 do not appear to be disclosed in Johnson '248 alone or in combination with Albrecht and Johnson '085; therefore, attention is directed to Purton, which teaches

Regarding claim 14, a sensor is present along a line of movement of cards in the device within the single card receiving area or adjacent the single card receiving area and after the image capture device, the sensor indicating a trigger position of a moving card to initiate a timed capture of an image by the image capture device (column 10, lines 10-14 and Fig. 6, 153 and 156, Purton).

Regarding claim 15, at least one microprocessor is present in the device and the at least one microprocessor controls vertical movement of the card collection surface and camera triggering (column 12, lines 18-27, Purton).

Regarding claim 16, at least a second sensor identifies the position of the card collection surface so as to place a top card in the collection area at a position that is level with or above the bottom of at least one card gripping element that is movable from at least one side of the collection area towards playing cards within the card collection area (column 8, line 22 to column 9, line 3 and Fig. 6, 153 and 156, Purton).

Regarding claims 17 and 26,the microprocessor is communicatively connected to the device and programmed to determine a distance that the card collection surface must be vertically moved to position at least one specific card at a bottom edge of the at least one card gripping / supporting element when the card gripping / supporting element moves to contact cards within the card collection area (column 6, lines 19-23 and Fig. 4, 116, Purton).

Regarding claim 18, at least one card gripping element comprises at least two gripping elements, at least one of which moves from a side of the collection area towards playing cards within the card collection area (column 7, lines 20-27 and Fig. 4, 127, Purton; rollers are elevated away from the cards and inherently may be lowered to the cards).

Regarding claims 19, 21 and 28, the microprocessor directs movement of an individual card into a gap in cards in the collection area between two segments of cards created by support of cards by at least one card gripping element (column 4, line 27 to column 5, line 4, column 8, lines 5-13 and Figs. 1 and 5, Purton; the gap is formed just before the card is moved to a position in the collection area).

Regarding claims 20 and 27, the microprocessor communicatively connected to the device is programmed to lower the card collection surface within the card collection area after the at least one element / card supporting element has contacted and supported cards within the card collection area, creating two segments of cards and a gap between the segments (column 6, lines 5-11 and Fig. 2, 20, Purton; the segments of cards and gap between segments is formed just after the card collection surface is lowered).

Purton suggests that a device is needed for card inspection or sorting so as to ensure that a deck of cards is properly integrated with no extra cards and without manual inspection (column 1, lines 9-26, Purton).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Johnson '248 in view of the teachings of Albrecht, and further in view of the teachings of Johnson '085, and even further in view of Purton for the purpose of exchanging the interchangeable features of the card shuffling apparatus of Johnson '248 alone or in combination with the features of Albrecht and Johnson '085 with the features of Purton to provide card placement within the card collection area in order to automate the process of integrating cards to eliminate the need for manual inspection.

Claims 2, 44 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson '248 in view of Albrecht, further in view of Johnson '085, and even further in view of Huen (US Patent 5,240,140). Features are described by figures with reference characters where necessary for clarity.

Johnson '248 alone or in combination with Albrecht and Johnson '085 teaches features of the claimed invention as described above.

The claimed features of claims 2, 44 and 49 do not appear to be disclosed in Johnson '248 alone or in combination with Albrecht and Johnson '085; therefore, attention is directed to Huen, which teaches

Regarding claim 2, the elevator raises all randomized cards above the top surface of the device (column 2, lines 8-11 and 46-48, Johnson '248; it is shown that the cards in the storing spaces are raised to a top surface) and the moveable cover is automatically raised to allow the randomized cards to rise above the top surface of the device (column 3, lines 29-39 and Figs. 1 and 3, Huen).

Regarding claim 44, an automatically movable cover is closed at least part of the time over at least one of the card receiver and collection surface (column 2, lines 16-24 and Fig. 1, Huen; the cards are forced against the lid to automatically open the lid, the lid being closed part of the time until opened).

Regarding claim 49, there is an automatically moveable cover over the elevator as part of the access (column 2, lines 16-24 and Fig. 1, Huen; the cards are forced against the lid to automatically open the lid, the lid being closed part of the time until opened and when opened provide access to the cards therein).

Huen suggests that a card dispensing device having a compartment accessible via a lid is needed to accommodate or present a stack of cards before or after shuffling and deal or distribute cards before use so as to remove the dead time between games (column 1, lines 6-25, Huen).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Johnson '248 in view of the teachings of Albrecht, further in view of the teachings of Johnson '085, and even further in view of Huen for the purpose of providing the card shuffling apparatus of Johnson '248 alone or in combination with the features of Albrecht and Johnson '085 with the moveable cover features of Huen in order to protect cards during the shuffling process and present cards automatically to the user after shuffling.

Response to Arguments

Applicants arguments filed in the Response dated 11/26/2007 and included in the Appeal Brief dated 4/28/2008 directed to the Examiners' rejection under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicants amendments and in view of applicants arguments thereof.

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because each of the features of applicants claimed invention continues to be unpatentable or obvious over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A US-5,692,748, Frisco et al.

B US-5,000,453, Stevens et al.

C US-5,718,427, Cranford et al.

D US-5,695,189, Breeding et al.

E US-5,676,372, Sines et al.

F US-4,969,648, Hollinger et al.

H US-5,275,411, Breeding

I US-5,390,910, Mandel et al.

J US-5,690,324, Otomo et al.

K US-4,900,009, Kitahara et al.

L US-5,584,483, Sines et al.

N WO 99/52610, Grauzer et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARTHUR O. HALL whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. O. H./
Examiner, Art Unit 3714

/Scott E. Jones/
Primary Examiner, Art Unit 3714